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APR 26 2010

In re Application of
Michael Conor Minogue et al
Application No. 09/902,287
Filed: July 10, 2001
For: ABDOMINAL BELT WITH ADJUSTABLE
ELECTRODES

OFFICE OF PETITIONS

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 8, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to prior-filed PCT application number PCT/IE00/00004 filed January 11, 2000.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

As stated in the decision mailed August 3, 2009, a Certificate of Correction is needed because the benefit claim was not on the front page of the patent. Further, the above petition is necessary because applicant did not include a proper benefit claim (in the first sentence of the specification or an ADS) within the required time period. The amendment to the specification was added after the time period and was entered prematurely without the filing of the above petition.

The Certification of Correction submitted with the above petition on March 8, 2010 list PCT Application No. PCT/IE00/00004 as a foreign application instead of as: This application (09/902,287) is a continuation of PCT/IE00/00004 filed January 11, 2000, as to a benefit claim under 35 U.S.C. §§1.20 and 365(c). If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and the submission of a Certification of Correction to correct the above matters are required.

Petitioner should note that the present application cannot claim foreign priority to the PCT application since the PCT application was filed more than one year prior to the filing of the present application.

Additionally, the Copy of the Power of Attorney submitted with the above petition is not proper because the title of the person signing on behalf of the assignee and a printed name is not provided. The Office is not sure who signed the above.

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